

EXHIBIT 21

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Sylvia James,

Plaintiff,

v

Case No. 2:12-cv-10273

Hon. Paul D. Borman

Hilliard Hampton, *et al.*

Defendants.

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AFFIDAVIT OF EDWARD D. ROTHMAN, Ph.D

STATE OF MICHIGAN)
) SS
COUNTY OF WASHTENAW)

EDWARD D. ROTHMAN, being first duly sworn, deposes and states as follows:

1. I am over the age of 18 and fully competent to make this Affidavit and testify to the facts and opinions set forth herein.

2. The facts and opinions stated herein are true and correct, and are based on my personal knowledge and expert analysis.

3. I obtained my bachelors of science degree from McGill University, where I majored in mathematics and earned First Class Honours in Mathematics. I obtained my Ph.D in statistics at Johns Hopkins University (Baltimore), where I also minored in econometrics and mathematics. I have been a tenured professor in the Department of Statistics at the University of Michigan since 1969.

4. I submitted a Rule 26 Report (the "Report") in connection with the above-captioned case in order to disclose my opinions and the facts and data upon which my opinions are based, as well as my qualifications and other related information regarding my experience and details of my engagement in this case

5. It was brought to my attention that there were two errors in the data referenced in my Report, and one clerical error in my summary of the data.

6. The following errors in the data were brought to my attention:

- A. The data I relied upon double counted three instances of discipline for Judge Halloran, resulting in Judge Halloran's disciplinary proceedings being counted six times rather than three. As such, the calculation in my Report regarding race as a factor in the removal of judges from the bench erroneously inflated the number of non-African American judges who were *not* removed by virtue of double counting the data concerning Judge Halloran. This error impacted my calculations on both race and gender.
- B. The data I relied upon included cases from a 20 year period from 1998 through 2017 that were (1) formal complaints finally determined by the Michigan Supreme Court, and (2) consent proceedings; however, this data erroneously excluded seven consent proceedings within this time frame (although the motion in limine that was filed to preclude my Report and testimony erroneously states that the data had omitted five consent proceedings). This error affected my calculations on both race and gender.

7. The following clerical error was included in my summary of the data.

When preparing the data for my calculation, I erroneously moved one instance of an African American judge who was not removed and counted that as an instance of a non-African American judge who as not removed (i.e., there were in fact 19 African American judges who were *not* removed from the bench, not 18). The correct data (19 African American Judges who were *not* removed) was in Appendix B of my Report; however, my calculation of the p-value relied on the incorrect count. This error only impacted my calculation regarding race.

8. After learning of the aforementioned errors, I corrected the data and

the clerical error, and performed the same calculations using the corrected information. The corrected data is attached hereto as Exhibit 1, and the previously omitted consent proceedings are highlighted at the end of this chart.

9. My updated calculations use the exact same formulas and methodology as my previous calculations, but apply them to the corrected data and correct the clerical error.

10. This same methodology applied to the corrected data yielded p-values as follows:

A. For gender, the calculation prepared in Section B of my Report using the corrected data attached hereto as Exhibit 1 yield a p-value of .0262 using a single-tail chi-square analysis (as opposed to .0416 as set forth in my Report).

B. For race, the calculation prepared in Section C of my Report using the corrected data attached hereto as Exhibit 1 yield a p-value of .0664 using a single-tail chi-squared analysis (as opposed to .02802 as set forth in my Report).


11. With respect to gender, the p-value using corrected data is even lower. This reinforces my opinion that we should reject the hypothesis that the decision process was neutral with respect to the gender of the judge. The probability that our statistic---that reflects the departure between the observed count of decisions that "removed" a judge and the expected count assuming a gender neutral process with a one sided alternative---is found to be as large or even larger is less than 3% (.026).

12. With respect to race, the p-value using corrected data is somewhat higher. The probability that our statistic ---that reflects the difference between the observed count of decisions that "removed" a judge and the expected count assuming a race neutral process and an alternative with black judges being impacted—is found to be just under 7% (.066). Though this would not lead to rejection of a race neutral decision process because the p-value exceeds the usual standard of 5%, it is still a rather small probability.

Further deponent sayeth not.


EDWARD D. ROTHMAN, Ph.D

Subscribed and sworn to before
me this 20 day of June 2018


Notary Public

PAMELA A. FRAVALA
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Jan 9, 2020
ACTING IN COUNTY OF *WASHINGTON*

EXHIBIT 1

Investigation No. / Judge	#	Year	Race	Gender	Discipline
Jeanette O'Banner-Owens	80	N/A	B	F	Dismissed due to death
Helen E. Brown	Consent	2003	B	F	Public Censure
Marion Moore	76	2005	B	F	Public Censure
Benjamin H. Logan	85	2010	B	M	Public Censure
David Martin-Bradfield	66	2002	B	M	Public censure, 30 day suspension no pay
David Martin-Bradfield	79	2006	B	M	Dismissed because of retirement
Beverley Nettles-Nickerson	81	2008	B	F	Removed
Brenda K. Sanders	95	2015	B	F	Removed
Sylvia A. James	88	2012	B	F	Removed
Warfield Moore Jr.	58	2001	B	M	Suspended 6 months no pay
Warfield Moore Jr.	69	2002	B	M	Dismissed by JTC per resolution with Judge
Cynthia Gray-Hathaway	60	2001	B	F	Suspended no pay 6 months
M.T. Thompson	72	2004	B	M	Suspended no pay 90 days
Christopher C. Brown	54	2001	B	M	Suspension 15 days, no pay
Susan R. Chrzanosky	65	2001	W	F	6 months suspension, no pay
David G. Myers	86	N/A	W	M	Dismissed due to death
Harrell D. Milhouse	63	2000	W	M	Public censure, suspended 10 days no pay
Harrell D. Milhouse	70	2002	W	M	Dismissed due to resignation
Jack R. Jelsema	67	2001	W	M	Public censure
Jack R. Jelsema	71	2003	W	M	Dismissed due to resignation
Frank Del Vero	75	2004	W	M	Dismissed due to retirement
John M. Chmura	56	2000	W	M	No misconduct
William C. Hultgren	82	2008	W	M	No misconduct
Dana Fortinberry	78	2006	W	F	Public Censure
Norene S. Redmond	Consent	2008	W	F	Public Censure
Michael J. Haley	77	2006	W	M	Public Censure
Steven R. Servaas	84	2009	W	M	Public Censure
William J. Runco	61	2001	W	M	Public Censure
Richard B. Halloran	consent	2002	W	M	Public Censure, 90 day suspension no pay
Richard B. Halloran	consent	2010	W	M	Public Censure, 14 day suspension no pay
Richard B. Halloran	97	N/A	W	M	Dismissed by the JTC
James P. Conrad	Consent	2005	W	M	Public Censure, 180 day subsuspension, no pay
Thomas S. Gilbert	Consent	2003	W	M	Public Censure, 6 month suspension no pay

Catherine Bove-Steenland	Consent	2008	W	F	Public Censure, 90 day suspension no pay
Charles C. Nebel	Consent	2010	W	M	Public censure, 90 day suspension no pay
James M. Justin	Consent	1998	W	M	Public censure
James M. Justin	87	2012	W	M	Removed
James P. Noecker	73	2005	W	M	Removed
Steven Ford	74	2004	W	M	Resigned, public censure
Gerard Trudel	Consent	2002	W	M	Public censure, 90 day suspension no pay
Gerard Trudel	68	2003	W	M	Retired
Mary Brouillette Barglind	83	2008	W	F	Suspended 30 days, no pay
James A. Scandirito	62	2000	W	M	Dismissed by resignation
Daniel R. Deja	59	1998	W	M	Dismissed because judge was not re-elected
Kenneth A. Radzibon	57	1998	W	M	90 day suspension
William Waterman	55	1999	B	M	60 day suspension
Wendy M. Baxter	53	2001	B	F	Public censure
Andrea J. Ferrara	52	1998	W	F	Removal
Joel S. Gehrke	51	1998	W	M	90 day suspension
Wendy Cooley	50	1997	B	F	Public censure
Wendy Cooley	64	2000	B	F	Complaint terminated due to judge's disability retirement
Deborah Ross Adams	89	2013	B	F	Removed
Kenneth D. Post	90	2013	W	M	Public censure, 30 day suspension no pay
Diane M. Hathaway	91	2013	W	F	Dismissed due to retirement
Bruce U. Morrow	92	2014	B	M	60 day suspension
Wade H. McCree	93	2014	B	M	Removed and conditionally suspended
Wade H. McCree	Consent	2012	B	M	Public censure
Dennis N. Powers	94	2014	W	M	Dismissed due to retirement
Brenda K. Sanders	Consent	2010	B	F	Public censure, 21 day suspension no pay
Cedric J. Simpson	96	2017	B	M	9 month suspension
Lisa O. Gorcycya	98	2017	W	F	Public censure
Elizabeth B. Church	Consent	2016	W	F	Public censure, 120 suspension no pay
Sheila Ann-Gibson	Consent	2014	B	F	Public censure; 30 day suspension no pay
Gregg P. Iddings	Consent	2017	W	M	Public censure; 180 day suspension no pay
R. Darryl-Mazur	Consent	2015	W	M	Public censure; 30 day suspension no pay
Thomas J. Shannon	Consent	2002	B	M	Public censure; 30 day suspension no pay
Kirk W. Tabbey	Consent	2014	W	M	Public censure; 90 suspension no pay

Dennis M. Wiley Consent 2014 W M Public censure